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20 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

|    |                                       |   |  |
|----|---------------------------------------|---|--|
| 21 | OUR CHILDREN'S EARTH                  | ) |  |
| 22 | FOUNDATION, a non-profit corporation, | ) | Civil Case No.: CV 14-1201-VC              |
| 23 | and ECOLOGICAL RIGHTS                 | ) |  |
| 24 | FOUNDATION, a non-profit corporation  | ) | <b>STIPULATION AND <del>PROPOSED</del></b> |
|    | Plaintiffs,                           | ) | <b>ORDER FOR CONTINUATION OF THE</b>       |
| 25 | vs.                                   | ) | <b>STAY OF THE LITIGATION</b>              |
| 26 | LELAND STANFORD JUNIOR                | ) |  |
| 27 | UNIVERSITY                            | ) |  |
| 28 | Defendant.                            | ) |  |

1 Plaintiffs Ecological Rights Foundation and Our Children's Earth Foundation  
2 (collectively, "Plaintiffs") and Defendant The Board of Trustees of the Leland Stanford Junior  
3 University ("Stanford") (Plaintiffs and Stanford are referred to collectively as the "Parties" or  
4 individually as the "Party"), by and through their counsel of record, hereby stipulate as  
5 follows:

6 WHEREAS, Magistrate Judge Laporte, who is presiding over a separate Endangered  
7 Species Act lawsuit involving the same Parties (Civil Case No.: CV 13-0402-EDL), directed  
8 the Parties to participate in a Settlement Conference with Magistrate Judge Ryu and that  
9 Settlement Conference took place on January 7, 2016;

10 WHEREAS, with the assistance of Magistrate Judge Ryu, the Parties achieved a  
11 resolution of the lawsuit before Magistrate Judge Laporte and this lawsuit, involving a  
12 continuation of the stay in this case while Stanford completes the process underway to secure  
13 the required regulatory authorizations for modification of the Jasper Ridge Road Crossing and  
14 removal of the Lagunita Diversion Dam, at which time Plaintiffs will dismiss the case with  
15 prejudice;

16 WHEREAS, the parties now submit this stipulation and proposed order in furtherance  
17 of their settlement agreement, setting forth a summary of the terms that support continuation of  
18 the stay of the litigation until issuance of the required regulatory authorizations for  
19 modification of the Jasper Ridge Road Crossing and removal of the Lagunita Diversion Dam;  
20 and

21 WHEREAS, by entering into this Stipulation, the Parties specifically acknowledge that  
22 this Stipulation does not constitute any concessions as to the strength or weakness of any  
23 Party's claims or defenses or the sufficiency or necessity of the proposed modification of the  
24 Jasper Ridge Road Crossing or removal of the Lagunita Diversion Dam.

25 NOW THEREFORE, the Parties stipulate as follows:

26 1. Stanford submitted the applications for the required regulatory authorizations  
27 for the planned modifications to the Jasper Ridge Low Flow Crossing on December 18, 2015,

1 and shall submit the applications for the required regulatory authorizations for the planned  
2 removal of the Lagunita Diversion Dam before September 2016.

3 2. During the permitting process, Stanford shall provide Plaintiffs with copies of  
4 the applications referenced in Paragraph 1 and copies of the regulatory agency responses to  
5 such submittals.

6 3. In light of the foregoing and with the Court's approval, the Parties request that  
7 this lawsuit should be stayed until the regulatory authorizations referred to in Paragraph 1  
8 above are secured by Stanford ("Stay").

9 4. Once every four months during the Stay, on or before the 15<sup>th</sup> day of the fourth  
10 month, the Parties shall provide a joint progress report to the Court that summarizes material  
11 developments with respect to the proposed modification of the Jasper Ridge Road Crossing  
12 and the planned removal of the Lagunita Diversion Dam.

13 5. The Stay shall remain in effect until the regulatory authorizations for the  
14 proposed modification of the Jasper Ridge Road Crossing and the planned removal of the  
15 Lagunita Diversion Dam are secured by Stanford, at which time Plaintiffs shall dismiss this  
16 lawsuit with prejudice.

17 Dated: January 27, 2016

/s/ Christopher Sproul

Christopher Sproul  
Attorney for Plaintiffs Our Children's Earth  
Foundation and Ecological Rights  
Foundation

/s/ Sarah G. Flanagan

Sarah G. Flanagan  
Attorneys for Defendant The Board of  
Trustees of the Leland Stanford Junior  
University

~~Proposed~~ Order

PURSUANT TO STIPULATION AND FOR GOOD CAUSE SHOWN, IT IS SO ORDERED. This lawsuit is hereby stayed until the regulatory authorizations referred to in Paragraph 1 above are secured by Stanford. IT IS FURTHER ORDERED that the Parties shall file their first joint progress report on or before May 16, 2016.

Date:

2/9/16

  
Hon. Vince Chhabria  
United States District Judge